

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-320-E**

IN RE: Joint Application of Duke Energy)	
Carolinas, LLC and Duke Energy)	
Progress, LLC to Establish Green Source)	COMMENTS
Advantage Programs and Riders GSA)	OF THE
)	SOUTH CAROLINA SOLAR
)	BUSINESS ALLIANCE, INC.
)	AND
)	REQUEST FOR ADDITIONAL TIME
)	TO FILE FINAL COMMENTS
)	

Request for Additional Opportunity to File Final Comments

On November 26, 2018, the South Carolina Solar Business Alliance, Inc., (“SCSBA”) requested a date certain of January 7, 2019, for Intervenor comments in this Docket. This was based on an expectation that the North Carolina Utilities Commission (“NCUC”) would have issued its final Order on Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (hereinafter together as, “Duke Energy”) proposed Green Source Advantage Program (“GSA Program”), prior to the end of 2018¹. However, the NCUC has not yet issued a final Order on these matters.

Therefore, the SCSBA requests this Commission order that final Comments from Intervenor shall be due by March 7, 2019 and a Response from the Applicants to the Intervenor’s Comments shall be due twenty-one days after the Intervenor’s Comments due date of March 7, 2019.

As outlined in more detail below, a diverse group of stakeholders participated in the NCUC proceedings on Duke Energy’s GSA Program proposal. These proceedings included written comments and oral arguments from intervenors in that Docket. Intervenor included the University of North Carolina at Chapel Hill, Apple, Google, the North Carolina Attorney General, the North Carolina Utilities Commission Public Staff, clean energy businesses and environmental advocates, all of whom documented various concerns regarding the multiple GSA Program designs proposed by Duke Energy. Given the level of scrutiny this proposal has

¹ Duke’s proposal for its North Carolina GSA program is pending before the North Carolina Utilities Commission in docket nos. E-2, Sub 1170 and E-7, Sub 1169.

received in North Carolina regulatory proceedings, the SCSBA continues to believe that this Commission would benefit from an ability to review the upcoming NCUC Order on these matters and that Intervenors in this Docket would benefit from an opportunity to incorporate conclusions from the NCUC Order into final Comments to be submitted in this Docket.

However, even in the absence of a final order from the NCUC, the SCSBA identifies several issues related to the GSA Program proposal that merit comment at this point.

Commercial and Industrial Customer Demand for Clean Energy Resources

Corporations, public institutions, and the military are increasingly focused on ensuring they have adequate access to clean energy resources. As noted by an attorney for Google and Apple in a recent appearance before the North Carolina Utilities Commission, “[T]he ability for large users to procure clean energy resources is an ever-increasing business concern, certainly for my clients as with other large users. It’s what our customers expect, increasingly what the market expects, and it’s consistent with our notions of responsible corporate citizenship.”²

Closer to home, the South Carolina Office of Regulatory Staff has just submitted a report to the SC Public Utility Review Committee titled *Discussion of South Carolina Act 236: Version 2.0*, which contains a section on commercial and industrial renewable energy programs (Chapter 6). The report notes that, “These larger customers are increasingly demanding choices better suited to meeting their energy and sustainability goals, and utilities across the country are responding with a variety of programs, commonly referred to as Green Tariffs.”³

This increasing demand for clean energy is also reflected in the Corporate Renewable Energy Buyers’ Principles, which includes 78 corporate signatories with a combined market capitalization of \$7.8 trillion and that represent over 69 million MWh of demand for renewable energy by 2020. The principles adopted by these corporations include greater choice in procurement and cost competitive options, an ability to lock in energy price certainty and avoid fuel price volatility, and increased access to standardized and simplified processes, contracts and financing for renewable projects.⁴

² North Carolina Utilities Commission docket E-2, Sub 1170 and E-7, Sub 1169 DEP, LLC and DEC, LLC Oral Argument at 89

³ *Discussion of South Carolina Act 236: Version 2.0*, December 2018, Energy and Environmental Economics, Inc. at 40

⁴ See Corporate Renewable Energy Buyers’ Principles, available at, <https://buyersprinciples.org/>.

South Carolina higher-learning institutions Clemson University and Furman University have likewise signaled their support for increased access to clean energy resources. Clemson has a goal of net-zero carbon emissions by 2030 and Furman has set a carbon neutral target of 2026. Both of these institutions have submitted letters in support of Duke's proposed GSA Program but did not elaborate on how the mechanics of the program would work for their respective universities.

Relevant Issues Raised Before North Carolina Utilities Commission

As Duke Energy's proposed GSA Program in North Carolina is intended to meet a number of statutory requirements delineated in North Carolina House Bill 589, many of the issues raised in the North Carolina GSA Program Docket are not relevant to the GSA Program proposed by Duke Energy in South Carolina. However, two key issues that surfaced in North Carolina are relevant to whether Duke Energy's South Carolina proposal will provide the kind of clean energy access that its customers desire and deserve.

One important point of clarification is that at least three different program variations were supported or proposed by Duke Energy in North Carolina, but the stipulated program design agreed to between Duke Energy and Walmart⁵ most closely resembles Duke Energy's South Carolina GSA Program proposal. The SCSBA will not be commenting on any aspects of the North Carolina program that are not directly relevant to South Carolina.

Although the University of North Carolina at Chapel Hill and the U.S. Department of Defense were both explicitly named as intended beneficiaries of North Carolina House Bill 589, both entities deemed the proposed program, including the stipulated agreement with Walmart, to be unattractive and unworkable for their respective institutions.⁶ Google and Apple echoed the critiques laid out by UNC Chapel Hill and the Department of Defense during oral arguments.⁷

⁵ NCUC Docket Nos. E-2, Sub 1170 and E-7, Sub 1169, Agreement and Stipulation of Partial Settlement (August 16, 2018).

⁶ See NCUC Docket Nos. E-2, Sub 1170 and E-7, Sub 1169, Transcript of September. 4, 2018.

⁷ *Id.* at 88-96

The primary issue identified by these entities was the proposed bill credit available to participating GSA Program customers. As proposed by Duke Energy in South Carolina and consistent with its stipulation with Walmart in North Carolina, the bill credit available to GSA Program customers would be based on Duke Energy's, "day-ahead real-time hourly rate." Although Duke Energy characterizes this as an "avoided cost" rate, it differs considerably from the administratively-determined avoided cost rates established by the NCUC in North Carolina and this Commission in South Carolina.

Google and Apple maintain that, "A successful program needs to be transparent, which this isn't with respect to pricing, and the ability to lock in fixed pricing, the ability to recognize the economic benefits of the bargain. If you've made a bargain, you should be able to realize that and then manage contract risk."⁸ UNC notes that the day-ahead real-time pricing is essentially an energy-only rate that does not reflect the capacity value of the resource.⁹

North Carolina House Bill 589 required that non-participating customers be neither advantaged nor disadvantaged by the GSA Program. To achieve that goal, non-participating customers would need to be financially neutral towards replacing utility generation with new clean energy generation on Duke Energy's system. Of course, that is the exact purpose of an administratively-determined avoided cost for energy and capacity. For that reason, the following parties supported using the administratively-determined avoided cost as an appropriate bill credit for participating customers: NC Public Staff, NC Attorney General, U.S. Department of Defense, Apple, Google, University of North Carolina at Chapel Hill, NC Clean Energy Business Alliance, NC Sustainable Energy Association, and the Southern Environmental Law Center.

The second area of concern raised in the North Carolina proceedings that the SCSBA also addresses below is Duke Energy's failure to file a GSA Service Agreement (or any program contract) for Commission and Intervenor review. A review of the program's standard terms and conditions is a priority issue for participants due to the magnitude of investment and the contract lengths envisioned for the GSA Program.

⁸ *Id.* at 94-95

⁹ *Id.* at 71

Designing an Effective GSA Program for South Carolina

The SCSBA supports the creation of viable clean energy programs designed to meet the growing demand for renewable energy from commercial and industrial customers in South Carolina, and the SCSBA is generally supportive of Duke Energy's proposed GSA Program as one potential option that could work for certain utility customers.

However, given the diversity of customers in Duke Energy's commercial and industrial rate classes, ensuring that sufficient program options are available to offer a fair and reasonable opportunity for these customers to take advantage of this program should be a primary consideration for this Commission. Duke Energy is proposing to offer a single program option that has been roundly characterized as unfavorable by a broad array of customers in the recent NCUC proceedings on this matter. The SCSBA agrees with many of the concerns raised in those proceedings as articulated in the comments below.

Provide an Alternative Bill Credit Based on Avoided Cost

As this Commission is well aware, developing administratively-determined avoided cost rates for South Carolina's electric utilities requires a substantial investment of time and capital by a wide range of stakeholders. The driving motivation for accurately calculating a utility's avoided cost is to send a price signal to the market whereby customers will be indifferent to energy and capacity purchased at that rate. In other words, an administratively-determined avoided cost is a benchmark meant to ensure that customers are held financially neutral when the utility purchases power from an independent power producer instead of generating it at utility-owned facilities.

Duke Energy, its customers, and independent power producers all rely on the accuracy and adequacy of administratively-determined avoided costs for a range of issues regularly before this Commission. The foundation of Duke Energy's value of solar calculations for net energy metering customers and how the utility recovers those costs from its rate base depends on its administratively-determined avoided costs. Whether a demand side management or energy efficiency program is deemed cost effective hinges on Duke Energy's administratively-determined avoided costs. The rates available to independent power producers when contracting for the sale of power to Duke Energy are dictated by administratively-determined avoided costs.

The variable day-ahead real-time hourly rate proposed by Duke Energy for the GSA Program bill credit is not an avoided cost methodology that this Commission has ever considered. This rate may be viable as a GSA program bill credit for certain highly sophisticated customers, but it should not be confused with the administratively-determined avoided costs that are specifically designed to capture the value of marginal power delivered to Duke Energy's system. The variable day-ahead real-time hourly rate reflects a short-term marginal energy rate that does not adequately value capacity and other grid services accounted for in administratively-determined avoided costs. Additionally, the day-ahead hourly rate would not be subject to the detailed methodological review and validation that administratively-determined avoided costs receive, nor does it provide a transparent means to set a bill credit that prospective program participants can evaluate. As a consequence, limiting program options to a bill credit based on the variable day-ahead real-time hourly rate would fundamentally undermine the value, accessibility, and success of the GSA program.

As clearly articulated by Duke Energy customers like UNC Chapel Hill, Apple and Google, and by the Public Staff in North Carolina, a bill credit based on administratively-determined avoided cost is a fair and transparent mechanism that allows customers to negotiate cost-effective power purchase agreements ("PPA") with clean energy developers and then recognize any savings that are created between the PPA rate and the administratively-determined avoided costs. Because all administrative costs are borne by program participants, this arrangement leaves non-participating customers financially neutral to the transaction while creating a savings opportunity for participating GSA customers that are able to negotiate favorable terms in the clean energy marketplace.

Lower the 3MW Program Threshold to 1MW

Duke Energy has proposed that GSA Program participants must have a contract demand equal to three (3) MW at a single location or aggregate contract demand of five (5) MW at multiple locations to qualify for this program. The SCSBA believes that lowering the threshold to one (1) MW at a single location will provide broader access to this program within the customer classes Duke Energy is targeting, by increasing the likelihood that smaller customers who would otherwise have little access to low-cost clean energy resources are also able to participate.

Require Transparency for GSA Service Agreements

The terms and conditions of the GSA Service Agreement, including the Power Purchase Agreement, should be made available to this Commission and Intervenors for review and comment prior to any approval of the GSA Program. Given the scale of investment and the contract lengths anticipated for the GSA Program, transparency related to the program's standard terms and conditions is a threshold issue for the SCSBA.

SCSBA GSA Program Recommendations

The SCSBA recommends that this Commission amend Duke Energy's GSA Program proposal in the following ways:

1. Customers must have a contract demand of at least one (1) MW at a single location or five (5) MW at multiple locations to participate in the GSA Program.
2. Duke Energy must make all GSA Service Agreement documents, including its proposed Power Purchase Agreement, available for review by this Commission and Intervenors prior to program approval.
3. Duke Energy will offer an Alternative Bill Credit that is based on its administratively-determined avoided costs and fixed for an initial period equal to the shorter of (i) the term of the GSA Service Agreement, (ii) ten years, or (iii) such shorter period as may be mutually agreed to by Duke and the GSA Customer.
4. For a GSA Service Agreement with a term of ten years or longer, the initial fixed term of the bill credit shall be ten years unless shortened by mutual agreement of the parties.
5. Where the GSA Service Agreement has a term that exceeds the initial fixed term of the bill credit, the bill credit for subsequent years shall be "refreshed" for the subsequent fixed term.
6. Unless otherwise mutually agreed to by the parties, the duration of the subsequent fixed term of the bill credit shall be equal to the shorter of (i) the remainder of the term of the GSA Service Agreement, or (ii) ten years.
7. The initial avoided cost rates for the initial bill credit are based upon the Commission's most recently approved avoided cost methodology in effect at the time that the Commission approves the GSA Program. The bill credit for any subsequent term will equal Duke's avoided cost rates based on the Commission's most recently approved avoided cost methodology in effect at the time of the "refresh".

Because the SCSBA continues to believe that this Commission would benefit from the opportunity to review the upcoming NCUC order on these matters and that all parties in this Docket would benefit from an opportunity to incorporate conclusions from the NCUC order into final comments to be submitted in this Docket, the SCSBA requests this Commission order that final Comments from Intervenorors shall be due by March 7, 2019 and a Response from the Applicants to the Intervenor's Comments be due by twenty-one days after the Intervenor's Comments due date of March 7, 2019.

Respectfully Submitted,
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